

STATE OF MICHIGAN
COURT OF APPEALS

LARRY E. TEEPLE,

Plaintiff-Appellant,

v

OCEANA COUNTY ROAD COMMISSION,

Defendant-Appellee.

UNPUBLISHED

February 26, 1999

No. 205708

Oceana Circuit Court

LC No. 96-004998 NO

Before: Hood, PJ., and Neff and Markey, JJ.

PER CURIAM.

Plaintiff appeals as of right from summary disposition, pursuant to MCR 2.116(C)(7), of his claims against defendant Oceana County Road Commission (county) on the basis of governmental immunity. MCL 691.1407; MSA 3.996(107). We affirm.

Plaintiff's multi-party action arose out of his fall on an asphalt ridge used to divert water runoff. The trial court ruled that the asphalt ridge was an "other installation" and not part of the improved portion of the roadway intended for vehicle traffic. Accordingly, the court ruled that plaintiff's claim did not fall within the public highway exception to governmental immunity. MCL 691.1402; MSA 3.996(102).

MCR 2.116(C)(7) provides that summary disposition is proper when a claim is barred because of immunity granted by law. When reviewing a motion for summary disposition granted pursuant to MCR 2.116(C)(7), this Court must accept as true the plaintiff's well-pleaded allegations and construe them in a light most favorable to the plaintiff. *Stabley v Huron-Clinton Metropolitan Park Authority*, 228 Mich App 363, 365; 579 NW2d 374, (1998). The motion should not be granted unless no factual development could provide a basis for recovery. This court reviews orders granting summary disposition de novo. *Horace v City of Pontiac*, 456 Mich 744, 749; 575 NW2d 762 (1998).

Enacted in 1964, the governmental immunity negligence act (MCL 691.1401 *et seq*; MSA 3.996(101) *et seq*.) grants immunity from tort liability to all governmental agencies when engaged in a governmental function. *Scheurman v Dept of Transp*, 434 Mich 619, 626-627; 456 NW2d 66 (1990). This broad grant of immunity is subject to a number of narrowly drawn exceptions, including

the highway exception, MCL 691.1402; MSA 3.996(102). *Taylor v Lenawee County Bd of Road Commrs*, 216 Mich App 435, 438; 549 NW2d 80 (1996). No action may be maintained under the highway exception unless it is clearly within the scope and meaning of the statute. *Scheurman, supra* at 630.

The immunity act specifically describes the word “highway” and goes on to provide that “[e]ach government agency having jurisdiction over a highway shall maintain the highway in reasonable repair so that it is reasonably safe and convenient for public travel.” MCL 691.1402; MSA 3.996(102). The statute then narrows the duty of the state and county, as opposed to a municipality:

The duty of the state and the county road commissions to repair and maintain highways, and the liability for that duty, extends only to the improved portion of the highway designed for vehicular travel and does not include sidewalks, crosswalks, *or any other installation outside of the improved portion of the highway designed for vehicular travel*. [MCL 691.1402; MSA 3.996(102), emphasis added.]

Therefore under the statute, defendant county can only be liable for a highway that is defective on the improved portion of the highway designed for vehicular travel. *Scheurman, supra* at 629. A county may not be held liable for a defect in a sidewalk, crosswalk or any other “installation” outside of the improved portion of the highway designed for vehicular traffic. MCL 691.102; MSA 3.996(102). Further, our Supreme Court has ruled that “designed for vehicular traffic” means an area *intended* for vehicular traffic. *Mason v Wayne County Bd. of Commrs*, 447 Mich 130, 137; 523 NW2d 791 (1994).

In the present case, plaintiff is unable to assert precisely where he fell. Nonetheless, even if we were to assume that he fell along a portion of the ridge that lies on property of defendant county, his claim is barred by governmental immunity. As plaintiff himself concedes, the sole purpose of the ridge is to prevent water, running off the road, from flooding the motel parking lot. Consequently, because the ridge is not part of the improved portion of the highway designed for vehicular traffic, the highway exception to governmental immunity does not apply.

Although the trial court erred in ruling that the ridge was an “installation,” as that term is used in MCL 691.1407; MSA 3.996(102), its conclusion -- that plaintiff’s claim against the county is barred by governmental immunity -- was correct. This court will not reverse a trial court’s judgment that reaches the correct result for the wrong reason. *Welch v Dist Court*, 215 Mich App 253, 256; 545 NW2d 15 (1996).

Affirmed.

/s/ Harold Hood
/s/ Janet T. Neff
/s/ Jane E. Markey